

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

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Investigation of:

COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA

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* Docket No.: DCA-08-MM-004

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Interview of: CAPT. PATRICK A. MOLONEY

Office of Marine Safety
 National Transportation Safety Board
 Washington, D.C.

Sunday,
 November 18, 1007

The above-captioned matter convened, pursuant to Notice,
 at 10:20 a.m.

BEFORE: LIAM LARUE
 National Transportation Safety Board

APPEARANCES:

LIAM LARUE

National Transportation Safety Board

ROB JONES

National Transportation Safety Board

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I N T E R V I E W

(10:20 a.m.)

MR. LARUE: We're on the record here then. It's Sunday, November 18th. The time is about 10:20 in the morning, and we are here with Mr. Pat Moloney from the Pilot Commission. This is Liam Larue from NTSB. To my left is --

MR. JONES: Rob Jones, NTSB.

MR. LARUE: And if you could spell your name for the record.

MR. MOLONEY: My name is Patrick, spelled the usual way, middle initial A. Moloney, M-o-l-o-n-e-y.

MR. LARUE: All right.

INTERVIEW OF CAPT. PATRICK A. MOLONEY

BY MR. LARUE:

Q. We'll start off, what's your current position?

A. I'm Executive Director of the Board of Pilot Commissioners.

Q. And how long have you been in this position?

A. Fourteen years.

Q. Okay.

A. Plus.

Q. All right. And then if we could just go through your background. Start with your education and experience leading up to your present position.

A. U.S. Merchant Marine Academy, Class of '74. Went active

1 duty U.S. Navy, damage control assistant on board the Frigate USS
2 Knox. Left active duty in 1977, went with Military Sea Lift
3 Command, did junior officer billets from '77, standard third mate,
4 second mate, chief mate and cargo mate on oilers and first commend
5 in February 1982, commanded 12 ships with Military Sea Lift
6 Command, mostly underway replenishment oilers, basically starting
7 in early 1989. I became a Marine superintendent for Military Sea
8 Lift Command Pacific which is another word for Port Captain. I
9 did that for almost three years, resigned from Military Sea Lift
10 Command at the end of '91, taught various courses at California
11 Maritime Academy, late '91 through '92. During that time, I was
12 seconded out as consultant to the Harbor Safety Committee for
13 writing the Harbor Safety Plan and was deeply involved with the
14 Tug Escort Subcommittee. I was also contracted out to the Board
15 of Pilot Commissioners to provide the testing for pilot trainee
16 candidates. In 1993, the position of Executive Director for the
17 Pilot Commissioners opened up. I was one of 33 candidates who
18 applied, made it to the 10 finalists or I guess semifinalists.
19 There were three of us who were finalists and I was selected as
20 the one, started in February '93, and I've been the Executive
21 Director ever since, the only Executive Director. Prior to that,
22 there was only the Commissioners and the Secretary to the
23 Commission, but things were getting a little too intense for them,
24 and so they opted to bring in the Executive Director. So I've
25 been doing that since '93, maintained my master's license and just

1 keeping my waterfront credentials up. I've also been the
2 volunteer master of the Liberty ship, Jeremiah O'Brien since 1996.
3 Just recently renewed my license. I'm good for another five years
4 including STCW offshore certification.

5 Q. What license do you hold?

6 A. Unlimited master oceans.

7 Q. Okay. Could you just go into a little bit about your
8 basic responsibilities and your role as the Executive Director?

9 A. I can give you a job description sheet if you're so
10 inclined but the thumbnail version is direct operations here at
11 the Board of Pilot Commissioners. There are two salaried
12 employees, myself and our administrative assistant/secretary. The
13 Board is seven Commissioners who are gubernatorial appointees.
14 Just running the shop here is incident investigation. We
15 supervise the training program, run the pilot selection process,
16 rate hearings and any other Committee hearings that happen. The
17 Board typically meets once a month and then there are numerous
18 committees. Let me walk over to my board here and I'll briefly
19 name the committees. Those also generally meet about once a
20 month. So we've got things going on with some frequency here.
21 Other committees include curriculum and training. That's the
22 ongoing pilot training process. We have two programs there, the
23 manned model simulator and the -- basically a five year cycle,
24 bridge resource management electronics and keeping the pilots up
25 with what's current in the maritime education. We have our

1 Finance Committee which handles the Board finances, the Incident
2 Review Committee, which as I say, incident review is one of our
3 most publicly visible operations, the Pension Committee, the Pilot
4 Evaluation Committee which is very important. That is the ongoing
5 day-to-day training of pilot trainees. That committee is made up
6 of five senior pilots. It's a Commission committee but it's made
7 up of pilots. I sit in with that committee but do not vote on it.
8 The Trainee Selection Appeals Committee. That only surfaces when
9 we're having pilot exams and there's an appeal on a decision.
10 Manpower Committee, Rules and Regulations Committee.
11 Unfortunately that one meets all too frequently, keeping our rules
12 and regs up to spec. We've got another very focused committee,
13 the Union Pacific Railroad Bridge Committee. There's a choke
14 point well up in our system above Suisun Bay where the Union
15 Pacific Railroad Bridge crosses the Carquinez Strait and a number
16 of years ago it turned out there were problems of communication
17 between the pilots and the bridge operator, Union Pacific Railroad
18 or actually it was Southern Pacific back then, before the merger,
19 took a real standup position on it. They were flying people out
20 from their headquarters, Coast Guard, pilots, unions had
21 representatives, the Pilot Commission had representatives, and we
22 basically hammered out a communications protocol which has
23 significantly decreased the number of communication problems, a
24 small thing but it's one of those few occasions where you can hold
25 up something and say, this was so successful we disbanded this

1 committee. We pull it back together about once a year if there's
2 any problems. It's a real success story, and our Pilot Fitness
3 Committee which is a committee that looks at our physical and
4 we're edging into mental health standards for pilots. That one
5 doesn't meet very often either. So we have the various and sundry
6 committee reports and I think that pretty well covers it as well
7 as handling any public interest things that come in. We try and
8 keep it quiet.

9 BY MR. JONES:

10 Q. Who makes up all these committees?

11 A. Commissioners and -- oh, there was another committee I
12 forgot to mention, the Pilot Boat Committee. We're in the process
13 of getting ready to build another pilot boat. Sorry. Who makes
14 up the committees? There are typically one to three Pilot
15 Commissioners on the committee, myself, Board counsel if necessary
16 and interested members of the user groups. We like to keep the
17 stakeholders involved. In a number of cases, we have
18 representatives from other state organizations such as Department
19 of Fish and Game, with the Office of Oil Spill Prevention and
20 Response. The Coast Guard is usually heavily involved with us and
21 attend our Board meetings. Usually it's their incident section
22 although we have frequent visitation from Vessel Traffic Service
23 also. And that -- I guess that's it. We like to keep all the
24 stakeholders involved so that when it gets down to making rules
25 and regulations, instead of a -- how do I want to say this?

1 Instead of everybody trying to beat each other about the head and
2 shoulders, we have a generally satisfied group where the legwork
3 has already been done, the issues have already been taken care of,
4 and people are in accord or at least in gentle disagreement with
5 where we're going, and our rules and regulations sessions are
6 generally very non-contentious. We're pretty proud of the way
7 things have evolved over the last 15, 20 years. It wasn't always
8 this way.

9 Q. The seven Commissioners you mentioned, you're the
10 Executive Director?

11 A. I'm the Executive Director. I am not a Commissioner.

12 Q. Okay.

13 A. The Commissioners are appointed by the Governor, two
14 year terms, renewable once. No, that's not right. Four year
15 terms, renewable once. So we can have Commissioners who last as
16 long as eight years. There are three public members. There are
17 two members from the San Francisco Bar Pilots and back when this,
18 back when this happened in 1984, when the San Francisco Bar Pilots
19 and the Inland Pilots amalgamated, the Commission grew from three
20 members to seven. The way it was originally set up and has
21 evolved past this, was you had your three public members. The two
22 pilot members were supposed to be a former San Francisco Bar Pilot
23 and a former Inland Pilot, so there was balance between the two
24 groups. That has gone away now because there are so few Bar
25 Pilots left and so few Inland Pilots. Almost -- well, the vast

1 majority of the pilots now have come up through the training
2 program and are a whole separate category. And both of the pilot
3 Commissioners we have now are former trainee program pilots. The
4 industry members of the Commission, those are the final two, three
5 public, two pilot and two shipping industry, you're supposed to
6 have one industry member from tanker companies. Currently it's a
7 Chevron member, and one from the dry cargo industry. Our current
8 Commissioner from the dry cargo is an American President Lines
9 executive.

10 BY MR. LARUE:

11 Q. What's the third one?

12 A. Well, it's the three public members.

13 Q. Okay. Three public and then the two and two industry.

14 A. Yeah. The public members can be pretty much anything.
15 We've had bank executives. They come from all over. Our current
16 public members, one of them is the President of the Sailor's Union
17 of the Pacific. Another one is a recently retired lobbyist who is
18 also an insurance attorney, non-practicing, but he brings a legal
19 background. And the third is a human resources specialist.

20 BY MR. JONES:

21 Q. So those seven Commissioners, you're the Executive
22 Director, and then there's the President.

23 A. The President of the Commission is a public member. The
24 Vice President is almost always a public member also, but in the
25 past we've had problems getting appointments through.

1 Commissioner appointments expire, and this isn't the most high
2 profile commission in the state government, current crisis
3 notwithstanding that's giving us a considerably higher profile
4 than usual. For the most part, we're such a small organization
5 that we completely disappear in the minutia of state operations.
6 We're the smallest commission, also the oldest. This Commission
7 dates continuously back to 1850 in the first act of Legislature.

8 Q. So the two public members that you mentioned before are
9 the lobbyist, HR specialist or the -- what was the first one?

10 A. President of the Sailor's Union of the Pacific.

11 Q. That's it. That's -- one of those three is the
12 President?

13 A. Yes.

14 Q. Okay.

15 A. Commissioner Miller who is our retired lobbyist is the
16 President.

17 Q. Okay.

18 A. And the Union member is our Vice President.

19 Q. Okay. Now these seven, they're the seven that would
20 look at any pilot incidences?

21 A. Yes. The way things have worked, the Incident Review
22 Committee which is made up of Commission Lundeborg, who is the
23 President of the SUP, and myself, that's the Incident Review
24 Committee, IRC for short, the IRC does the investigation. I have
25 three retired shipmasters on contract as investigators. They go

1 out and they are my finders of facts. They get the information
2 back to me. The pilot involved in the incident is supposed to
3 provide me with a written report of what happened within a
4 reasonable timeframe. That reasonable timeframe is not described.
5 It's left as reasonable within our regulations, reason being
6 sometimes there's fact finding which the pilots are involved with,
7 but typically I'll get the pilot's report between a week and two
8 weeks after the incident. My investigator generally a little
9 longer because there's lawyers to go through basically. Sometimes
10 I get very in depth reports from the pilot and the investigator
11 and sometimes, as in the current investigation, the lawyers
12 completely stonewall us. It's gathering what information we can
13 and making do with, you know, what I can get hold of. Sometimes
14 it's very frustrating.

15 Q. If this incident hadn't become what it was, and it was
16 just reportable basically to the Pilot Organization, would the Bar
17 Pilots do their own investigation?

18 A. No, I do the investigations.

19 Q. So they don't investigate themselves at all?

20 A. No. What happens is when there is an incident, the port
21 agent or whoever is acting for them, the port agent is the
22 President of the Bar Pilots. He gets the report immediately. He
23 contacts me. Generally, the first thing I get is an incident
24 report sheet that is faxed to me or handed to me shortly after it
25 happens. There are occasions where I get a call at 2:00 in the

1 morning from the port agent saying we just had an incident, and I
2 assign my investigator. So far I haven't had to call an
3 investigator out at 2:00 in the morning, things being what they
4 are with the shipping industry, I can afford to wait until the
5 next day to dispatch my investigator. So the pilots immediately
6 report it to me, you know, they're under significant public
7 scrutiny. It's an open book here. I get my investigation started
8 and we sit back and find out what comes in. Once the findings of
9 facts are given to me, I prepared an incident investigation
10 report. I've got boiler plate forms where I go through and set up
11 things. Actually my investigator also has a check off list on
12 things he looks for, things he sees that he can get from the
13 vessel, and I have a similar list. I'll be happy to give you
14 copies of what my investigator checklist looks like, and sample
15 forms. Everything in my investigation is a public document with
16 the exception of the pilot's written report and my investigator's
17 written report. That's done so that both of them feel they can be
18 open and, you know, tell the truth without their words becoming
19 public knowledge. The attachments that go with them, I pull out
20 of the report, so that the only thing that remains confidential
21 and not a public document, and this is statutes and regulations,
22 it was agreed to by Legislature, are the two reports that I
23 mentioned, the pilot's written report and the investigator's
24 report. After I have all that information, I lay it out, analyze
25 it, prepare my report and just on nuts and bolts issue, I

1 generally start at the moment of impact and work backward from
2 what my information has. I've got a number of factors to
3 consider. I'll provide you with copies of my working documents,
4 and once that is done, I provide the draft to my public member,
5 the IRC. We review it. Fortunately, since we've started the IRC
6 process, all of the public members who have been involved with it,
7 have maritime backgrounds. Now with our Commissioners, we're
8 pulling from a more diverse group than they used to or than the
9 Governor used to, and with our public members who don't come from
10 the maritime world, I have to gear my reports much more to
11 layman's terms which isn't a bad thing, you know. I'm used to
12 talking with and to mariners, and so I'll use marine vernacular
13 that I expect a mariner to understand. When I've got public
14 members who don't speak the language, I have to adjust my report
15 accordingly.

16 Q. So do we.

17 A. You know, since, since this all becomes a public
18 document, it's not a bad thing but, you know, the public is
19 reading it but at the same time, you know, if they're not aware of
20 what we're talking about, maybe they need to educate themselves
21 some more. I'm not doing this at first grade level.

22 Q. Understood.

23 BY MR. LARUE:

24 Q. So you generate your analysis basically.

25 A. Yes. Okay. I'm sorry. I stopped almost at the end of

1 the process. So my fellow IRC member and I come to general
2 agreement on what's in the report. At that point, we set up an
3 interview with the pilot involved. About somewhere between a
4 quarter and a third of the time, the pilot comes with counsel.
5 The IRC does not bring counsel into it. We have a maritime or an
6 admiralty attorney who is contracted with the Board, but typically
7 he doesn't see what we have as far as the report until it's
8 presented to the Commission. Let me back up. The pilot and
9 sometimes counsel come in. We sit at my conference table or as we
10 call it for the IRC, the long green table, and review the report.
11 The pilot may have issues with it. If he does, we expect him to
12 provide documentation but I try to give a balanced report that
13 presents the information, the facts, as we, my investigators have
14 found them, and sometimes I do follow up on the investigation and
15 what the pilot has provided to me. And we're -- in the vast
16 majority of cases, we're able to come to an agreement that, yes,
17 this is what happened, here's how it set up. Was there pilot
18 error? Was there not pilot error? What caused this? What were
19 the factors involved? And, I go through a checklist of what's
20 involved there, and as I said, we come to an agreement as to what
21 caused this incident. We're not trying to point fingers and
22 establish blame. It's not designed to be a punitive
23 investigation. We want to find out what happened, what can we
24 learn from it, how can we prevent it in the future? This may
25 sound somewhat familiar to you guys. I, you know, I think we're

1 doing the same thing you folks do at a small state level but
2 there's only two of us involved. Once we come to an agreement
3 with the pilot, the report is essentially wrapped up. If there is
4 pilot error, I have -- I'm going to say I. It's the Incident
5 Review Committee. We have a list of sanctions we can take. The
6 IRC does not have the authority to suspend or revoke a license.
7 However, if in the process of closing the investigation, we find
8 that there's pilot error and there's something which can be done
9 to remedy the situation, be that a stipulated suspension, remedial
10 training at the pilot's expense where he goes to one of the
11 schools, bridge resource management or something like that, doing
12 observation trips where the pilot will do rides with another pilot
13 on a similar ship, on a similar route, to see how other people do
14 it, and here's a case where if you have one of the old Inland
15 Pilots or old Bar Pilots, who didn't have the benefit of the pilot
16 trainee program, they're dealing with how they learned the job a
17 long time ago, and only riding with a very limited number of other
18 pilots. So they don't have the benefit of having ridden with 50
19 to 60 other pilots to see how those individuals do a job. So, you
20 know, they're at a disadvantage. They'd never tell you that but
21 they are because they haven't had the exposure to how it's done
22 another way. And so, you know, a senior in years pilot may go out
23 for training and observation with -- we wouldn't put them with a
24 junior pilot, but someone who maybe has 10 years of experience as
25 opposed to their 25 and go see how someone who has done this job

1 under the tutelage of many other pilots does it, and on the
2 occasions where we've done that, the pilots take it in the spirit
3 that it's met to go, and I've had feedback from the guys who say,
4 you know, that's the first time I ever saw that done. I wondered
5 how they did that particular job, and it's a learning experience.
6 Anyway, there's a number of things. So we don't have suspension,
7 revocation authority. However, we can stipulate to a suspension,
8 and in the past, we've had the pilots say, okay, you know, I'll
9 take a two week step down, a two month step down, and the biggest
10 one we ever did was a nine month suspension, that the pilot
11 stipulated to.

12 Q. How do you get a pilot to stipulate to that?

13 A. With the treat of suspension or revocation.

14 BY MR. JONES:

15 Q. And who has that authority?

16 A. That goes to the Board.

17 Q. Okay.

18 A. Now what I've done is taken you as far as the Incident
19 Review Committee. That's as far as we go although before I take
20 the next step, let me tell you what happens after that. Once the
21 pilot and the IRC have, you know, basically shaken hands and said,
22 yeah, this is what happened, I agree, and that's where it stops.
23 We have to agree that this is what happened and, you know, they
24 say roger that. I agree with the report and that goes into my
25 report. The pilot's signature isn't on it but the two IRC members

1 are. Once we wrap it up, at the next Board meeting, I present the
2 report. What you're looking at here is my binder with the report
3 information in it. For Cosco Busan, I've got perilously close to
4 a quarter inch of documents. That's a little thicker than normal
5 but not much. I've got some in my files that are close to 2
6 inches thick, and I've got one that the pilot paper is I'm going
7 to say about 10 inches thick, just too thick to put in there.
8 Back in my archives, I've got a Xerox paper box full of documents
9 that happened back in '94 or '95. So, you know, it goes from the
10 sublime to the ridiculous. I try and keep them short and when we
11 take a break here shortly, I'll show you my incident files just so
12 you see what is representative. Meanwhile, back at the long green
13 table, the pilot and the IRC have shaken hands on what I'm going
14 to present. I give it to the Board at the next meeting. I
15 provide them with my report summary which is the findings of facts
16 and that's it. Just the findings of facts as presented in my
17 report. After they've had an opportunity to read it, and that
18 typically includes a little chart showing what happened, I make a
19 presentation. I don't read the findings of facts. They've all
20 had it. We have a number of people in the audience. They're also
21 provided copies of the findings of facts. Typically we have half
22 a dozen of the public in attendance at Commission meetings. On
23 issues where there's something of interest, we may have as many as
24 a dozen. Seldom more than 15.

25 Q. How do they get notified about that?

1 A. Well, we have a mailing list.

2 Q. Okay.

3 A. The Commission, the general mailing list is I think
4 about 204 individuals and companies. We've got mailing lists for
5 all the individual committees. We've got the general mailing
6 list. I've got a security officer mailing list. Every time we
7 have a change in pilots or we add a new trainee, I send the
8 identification list, the pilot's ID card number, what their names
9 are, what their unit number is, to all the security officers for
10 all the companies on our routes. Anyway, I read off the graphic
11 description of what's in the findings of facts. Then I read the
12 opinions of the IRC and then the recommendation of the IRC which
13 is always to close the incident and here is the recommendation
14 that goes with it. Close this incident, no pilot error. There's
15 usually comments that elaborate on why this came up. In some
16 cases, I might get notified that something happened. We do an
17 investigation, and it doesn't happen very often, but I have the
18 authority to stop it. I can say this is not a pilot incident.
19 And I like those. Unfortunately it doesn't happen very often.
20 And I'll report on it to the Commission without going into the
21 details that you see with these. Anyway, read it out, give the
22 Commissioners opportunities to ask questions. In some cases, it's
23 educating public members on something that I assumed they knew but
24 they don't and so that, I add into my report to flesh is out, or
25 specific questions from our marine representatives, both pilots

1 and the industry members where, because of their background, they
2 may have a question where again I assume that they know something
3 but I haven't adequately spelled it out in my report. The
4 Commission then has the job of accepting it, not accepting it or
5 sending it back for further information. Once in a while, I get
6 something bounced back where they say we need more info on this,
7 and it's something that I can't answer right then or haven't
8 gotten the documentation to provide. So I get it and I present it
9 at the next month's meeting and in every case it's been accepted.
10 So that's how the typical incident goes. At this point, can we
11 stop the cameras for a moment. Let me step across the breezeway.

12 MR. JONES: Sure.

13 (Off the record.)

14 (On the record.)

15 THE WITNESS: And we're rolling.

16 BY MR. JONES:

17 Q. We're rolling.

18 A. Assuming things need to go beyond closing it with the
19 Incident Review Committee, we may find that we have something that
20 goes beyond what we can settle. At that point, we may recommend a
21 suspension or revocation hearing. If that's the direction we're
22 going, we do not present the findings of facts. We tell the
23 Commission we have investigated and we recommend providing the
24 documentation to the Commission for a suspension and revocation
25 hearing. The way the Board can handle that is our admiralty

1 attorney becomes the prosecutor basically and the Board can either
2 refer this to an Administrative Law Judge, an ALJ, which I'll be
3 using further, and take it whole cloth, or as they have done in
4 the last 20 years, 20 plus since they started, the Board can have
5 the ALJ hear the process and base it as a jury. The member who is
6 on the Incident Review Committee cannot participate. He's
7 recused. So it's six Commissioners or however many we have and it
8 takes four votes to make a quorum. So if we're running with a
9 short Commission, and we've been down to two at points, we can't
10 take any action. So things are on hold. A long time ago, before
11 the -- okay. The Commission had been formed as it is now but it
12 did not have an admiralty attorney. They were represented by the
13 State. An individual, a pilot, dropped an anchor on a tugboat.
14 The Board considered this real poor form. They didn't have the
15 IRC set up then but they did have what was called the Executive
16 Member, a Commissioner who did the investigations. He set up a
17 suspension/revocation hearing. He wanted the guy's license. It
18 went to an ALJ who had no maritime expertise whatsoever and what
19 he decided was the appropriate punishment, considering the pay of
20 the pilots at that time, was he gave the individual a suspension
21 for three days. The Board did not consider this to be
22 appropriate, and shortly thereafter got themselves an admiralty
23 attorney and we've had admiralty representation ever since then.
24 So the IRC, getting back to what we do, basically tosses this up
25 the food chain and says we recommend suspension or revocation and

1 we then set up a meeting with the ALJ. There are things we can do
2 right off the top, like a summary suspension of the pilot's
3 license, to get him off the water. There's a time limit on that,
4 and I'm going to say the Board has to present its case within 15
5 days. It's in the statutes and regulations which I'll refer you
6 to on the Internet. If you want, I can burn a copy and you can
7 take the paper with you.

8 Q. Sure.

9 MR. LARUE: And we can add it to our growing stack.

10 THE WITNESS: The pile?

11 MR. LARUE: Yeah.

12 BY MR. JONES:

13 Q. Which is somewhat bigger than a quarter of an inch.

14 A. Yes. You know, actually I think I may already have
15 copies.

16 Q. Okay. That would be great.

17 A. And it goes to the Commission. They set up a meeting or
18 a schedule with an ALJ, the Board presents its case. The pilot,
19 of course, has an attorney and experts are hired. It turns into a
20 real goat rodeo to use a technical term. The last time we did
21 this, it took over a year before things finally came to a head and
22 it was with the same attorney that is working with Captain Cota
23 this time. So we're in for a real treat. And eventually it comes
24 to the hearing. The Board sits as jury with the ALJ and renders a
25 decision. Usually there's a settlement once things start getting

1 interesting. The last time we did this which was in '97, although
2 there were threats of going to a hearing since then, but the last
3 time we actually went to a hearing was '97 and that concerned an
4 allision with a container crane. The pilot had his license
5 revoked but that was stayed, given 180 days outright suspension
6 and 2 years probation, and then after the 180 days as part of the
7 order, he had to do a certain number and I don't recall off the
8 top of my head what it was, of check rides with pilots on the
9 Evaluation Committee to demonstrate that he was back up to speed.
10 As a matter of routine, if one of our pilots is off the board, as
11 we say, for an extended amount of time and the poster child for
12 this would be the port agent, the guy who's sitting in the office
13 for a two years sentence. When he gets ready to go back on the
14 board, he'll self-assign himself a period of usually it's 10 days
15 to 2 weeks of going out and riding with other pilots to not so
16 much relearn the routes, you know, they don't forget that but
17 having been off the Bay for that amount of time, there can be
18 changes in regulation, there can be changes in some of the port
19 configurations or harbor configurations, but more importantly it's
20 to get their timing back.

21 Q. And would that also be for someone just on the beach for
22 a medical ailment --

23 A. Yes.

24 Q. -- for six months? What's the minimum amount of time
25 they would be away before they would go to these refresher rides?

1 A. It's not in regulation, and it's, it's self-regulated
2 where it doesn't get held against the pilot. You know, everybody
3 in the organization understands that if you've been on the beach,
4 medical or in the case of a six month suspension --

5 Q. Uh-huh.

6 A. -- you need to get back out and get your timing back
7 because if you're not doing it all the time, you get rusty. In
8 the case of the pilot that we did the suspension, he was allowed
9 during the last couple of weeks of the suspension to go back and
10 start riding on that time. He was still suspended. He was off
11 the payroll, if you will --

12 Q. He was just observing.

13 A. -- and he was just observing. He was not handling at
14 all. And that's typically what they'll do. You know, they're out
15 riding just like a trainee, although, you know, with the one who
16 was suspended, he did have to do check rides where the Evaluation
17 Committee was evaluating him like a trainee, and he didn't like
18 that.

19 Q. Yeah. You had mentioned before, so is that the case for
20 every time, if the recommendation by the IRC is for the pilot to
21 go and ride along, is it always the pilot of record that's conning
22 the ship, does he evaluate the pilot that's been suspended or
23 given his -- the recommendation is for him to go do check rides?

24 A. If it's, if it's a matter of doing the remedial trips,
25 you know, hey, Aloysius, we want you to take six rides to the

1 Richmond Long Wharf on tankers of at least 200,000 tons, down
2 tide. They wouldn't do that anyway but just as an example. And
3 report on every ride because that doesn't come up very often. It
4 might take them a few months to get that out of the way, but he's
5 not restricted from doing other work during that time. It's just
6 that we want to see that he's done these check rides. He's not an
7 evaluated on those. If it was an individual who was coming off
8 suspension, then we might say we want an evaluation, but that is
9 very rare because the pilot of record don't like to evaluate their
10 peers. It's hard enough to get them to evaluate trainees but they
11 don't like doing it with their peers. However, with those -- that
12 suspension case, that's the only time we've done it that I recall,
13 we said it's got to be, you know, 10 rides with the Evaluation
14 Committee. We got a lot of feedback from the Evaluation
15 Committee. We burned a lot of good will on that but we had to
16 know that this guy was functioning properly. Is there a magic
17 number? No. If somebody had been off the board for three months,
18 generally they're going to say, you know, I need a few trips and
19 they work themselves back into the rotation. Six months
20 certainly, the port agent typically goes out for ten days, two
21 weeks after he goes back on the board and, you know, usually with
22 relish to get away from the desk.

23 Q. The port agent, is that a routine straw paw that every
24 pilot has to do it for a certain amount of time or --

25 A. No. The port agent is the President of the Bar Pilots.

1 He's elected for a two-year term by the pilot group, renewable or
2 reelectable for a consecutive term. They can serve more than two
3 sentences if it's non-consecutive. This is McIsaac's third time
4 in the chair.

5 BY MR. LARUE:

6 Q. Can they do more --

7 A. He doesn't relish it. I'm sorry.

8 Q. Can they just doing that as long as it's not
9 consecutive? So he can do four as long as --

10 A. Theoretically.

11 Q. Okay.

12 A. It's never happened before. Although that's, that's the
13 pilot work rules, and I'm not conversant with them.

14 BY MR. JONES:

15 Q. So the ultimate authority here would be the Board which
16 could revoke the license --

17 A. Yeah.

18 Q. -- after your report, if your recommended --
19 recommendation for -- to them for a suspension or revocation --

20 A. Yes.

21 Q. -- if it was to go that way?

22 A. Yeah.

23 Q. And --

24 A. During my tenure here, the Board has not revoked
25 permanently a license. They did in this one case where it was

1 revoked but stayed. There have been a couple cases where the IRC
2 acting on its own caused a pilot to retire precipitously.

3 Q. Uh-huh. And the Board you said was appointed by the
4 government?

5 A. Yes.

6 Q. Do they make a report to the Governor?

7 A. The last time they made a report to the Governor I think
8 was 1957. I've got a nice, you know, glossy publication referring
9 to him as His Excellency and whatever.

10 Q. It's not mandatory then. They just did it to do it
11 or --

12 A. I think they just did it for political purposes.

13 Q. So basically with a pilot-related incident, the buck
14 stops with this Board of seven?

15 A. Yes, although with the current incident, there is
16 Governor-level interest. We talked with some people in his office
17 at the third level down in staffing last week by teleconference.
18 So, yeah, the Governor is aware of what's going on and, of course,
19 if you follow the newspapers, he's been down here a time or two.

20 Q. Uh-huh.

21 A. I don't know. We're keeping our head below trench
22 level.

23 Q. Uh-huh.

24 A. Our Board President is much more involved on the
25 political scene. He's pretty savvy --

1 Q. Uh-huh.

2 A. -- in that as you might imagine with his background, and
3 so he much more than any other Board President I've worked with
4 keeps the Sacramento folks informed as to what we're doing. You
5 know, prior to this, even with some pretty high profile things, we
6 just, like I say, keep our heads down and handle things here and,
7 you know, if nobody up there in Sacramento knows that we're here
8 and we handle things, we think we're doing good.

9 Q. If we, just kind of going back to one of the middle
10 instances where you were talking that you and the pilot, the IRC
11 and the pilot agree, have to agree for the report to go forward,
12 the pilot doesn't agree with any of your -- how do you come to
13 some agreement or is there terms where you'll agree to disagree,
14 you're not changing your report, and he's not agreeing to it.

15 A. Unless it's something minor, and I have had cases where
16 there is a difference of agreement where neither of us can provide
17 that key piece of information that says pilot in error or pilot --
18 no pilot error. That's how we want it to fall, you know, we want
19 it clean. Pilot error. No pilot error. There are a few
20 occasions where we can't make that distinction and I will put in
21 my report no attributable pilot error. I've got gradations.
22 Pilot error, minor pilot error, no attributable pilot error, no
23 pilot error. And the standard of what constitutes an incident,
24 the Bar is getting progressively lower and lower and lower, you
25 know, there's things that 20 years ago you wouldn't even consider

1 as an incident, that today are, oh, that's horrible, a crushed
2 piling for instance. Why do you put pilings there? Well, they're
3 sacrificial to take the load. Today, you can't use a creosote
4 telephone pole anymore and now it's some synthetic gizmo --

5 Q. Uh-huh.

6 A. -- that if you land hard on it, you crush it into an
7 oval, then that's a 15, \$25,000 replacement thing. So we'll go
8 out and investigate sometimes crushed pilings. I think it's kind
9 of ridiculous but I'm from the creosote school.

10 BY MR. LARUE:

11 Q. Have you ever had one where you just didn't come to an
12 agreement?

13 A. Yeah, that goes to a suspension or revocation hearing.

14 Q. Okay.

15 A. You know, if they say, no, it wasn't my fault. I'm
16 like, no, this was your fault. And here's why, and here's what
17 we're going to tell the Board and this is why they're going to
18 take your license away period. Not just suspend them. This is
19 going to go away, you know, start planning your retirement because
20 we got you dead to rights on this one. That particular one agreed
21 to a nine month suspension with the Incident Review Committee.
22 And then shortly thereafter, he's the one that has the pile this
23 high, resulted in a medical retirement.

24 Q. When did you say the last S&R was?

25 A. '97.

1 Q. '97.

2 A. That we actually went to a hearing.

3 BY MR. JONES:

4 Q. And that's a public document now? The hearing.

5 A. Yeah.

6 Q. Yeah.

7 BY MR. LARUE:

8 Q. Does the pilot have to sign something saying that he
9 agrees or is it just kind of a handshake agreement and then it
10 gets moved onto the Committee?

11 A. You mean the IRC or --

12 Q. Yes.

13 A. -- a suspension order.

14 Q. When you have your meeting with the pilot?

15 A. When IRC and the pilot part ways, even if the pilot's at
16 fault, and there's a pilot error, these guys are usually so up
17 front about it, they give me enough information. I can write my
18 report --

19 Q. Uh-huh.

20 A. -- off the pilot's report. You know, they beat
21 themselves up worse than anybody else. So usually it's a
22 handshake and hey, you know, I'll see you around the waterfront.
23 You know, I personally know all the pilots and, you know, I've
24 been doing this for 14 years now. I'm friends with most of them.
25 There's a few, you know, you guys have waterfront credentials.

1 There's some people you just don't get along with. Others are so
2 low profile that I know them by name, and I've got their ID photos
3 on my computer for the ID cards, but I never have any interaction
4 with them. Some is frequent interaction. I have, you know, a
5 number of them that are my cadre of volunteer pilots on the
6 O'Brien. So I'm involved with them on a master pilot relationship
7 fairly constantly. Others I'm involved with Committee meetings,
8 and you get to know the guys, you know, we're all professional
9 peers, and you tend to like each other. And there's a few who are
10 not very likable.

11 MR. JONES: Sure.

12 THE WITNESS: Did that answer your question?

13 BY MR. LARUE:

14 Q. Yeah, definitely.

15 A. You know, I tend to beat around the bush but there's a
16 lot of facets to what we do here.

17 Q. Yeah. So taking that a step further, when you take your
18 findings of facts and your report, you go to the Commission, you
19 said the basic options are they accept it --

20 A. Uh-huh.

21 Q. -- they send it back to you for more information or you
22 also said they can just decline it?

23 A. They can decline it which means I go back to ground
24 zero --

25 Q. Okay.

1 A. -- and find out what the problem is.

2 Q. And what would you say the -- how often do each of those
3 happen? Is it more often that they accept it? Do they send it
4 back a lot?

5 A. It's very unusual for me to have to add additional
6 information. It's almost always, you know, 90 -- more than 95
7 percent of the time the Board just accepts it.

8 Q. Uh-huh.

9 A. I don't know. In 14 years of doing this, I've had it
10 postponed maybe three, maybe four times, where they ask for
11 additional information. It's never been turned down.

12 Q. And then from there, if you recommend S&R, the only
13 option for S&R is to do it with the ALJ and then they're sitting
14 as the jury?

15 A. Yes.

16 Q. Okay.

17 A. And if we do a suspension/revocation recommendation, we
18 don't give them the facts. We say the Incident Review Committee
19 has completed our investigation and we have to recommend to the
20 Board that it proceed with suspension and revocation proceedings,
21 and at that point, our admiralty attorney steps in and says,
22 here's the drill. And this is what we have as far as potential
23 times and the Commissioners consult their calendars and set aside
24 three to four days of hearing time.

25 BY MR. JONES:

1 Q. And if we're back to the agreement with the pilot --

2 A. Uh-huh.

3 Q. -- then whatever recommendation you make, you take it to
4 the port agent for the Bar Pilots?

5 A. No.

6 Q. No. Just him?

7 A. Just him. Typically -- well, I can't talk about what's
8 in the report until it's accepted by the Board. You know, there's
9 always a lot of interest, hey, what can you tell me about this? I
10 can't tell you anything. Although I work closely enough with the
11 port agent and all of them have been friends on a personal level
12 also where, you know, they'll say, hey, am I going to have to find
13 anybody to cover this board and --

14 Q. Well, that's kind of what I was getting at. If the
15 pilot just walks out of here with a handshaking, the minimum you
16 do is say suspension for three months or just, you know, pilot
17 check trips, but he doesn't tell the port agent, you know, how
18 does the port agent know this guy's free to --

19 A. They always tell the port agent.

20 Q. Right. So you're leaving it up to the pilot of record
21 involved in the incident to just --

22 A. If, if we're going to do something significant, I
23 wouldn't want to use the word draconian, but sometimes it almost
24 seems that way, I give the port agent a heads up ahead of time
25 without the details, you know, you're going to have to cover a

1 board here.

2 Q. Yeah. That's what I was getting to. It's not so much,
3 you know, that they don't need to know the details, but I would
4 think they would need to know the action that was taken and to
5 hear that from you as opposed to hearing it from the captain or
6 the pilot involved in the incident.

7 A. Officially, we're not supposed to release anything until
8 the Board accepts it.

9 Q. Uh-huh.

10 A. But if I see something coming down the road that's going
11 to impact their schedule and right now, okay, we've got 60 pilots.
12 We've got five retiring at the end of the year, and one going out
13 on a permanent not fit for duty. That has a huge impact --

14 Q. Uh-huh.

15 A. -- on their scheduling, and the -- at every Commission
16 meeting, the port agent gives a report on how many 12 hour minimum
17 rest period -- we don't call them violations anymore because that
18 has a negative connotation, how often pilots have been turned
19 around before they have 12 hours of rest between jobs, and he also
20 says why and how short it was, and typically it's, you know, 11
21 hours and 37 minutes or something like that. On occasion, there
22 have been some real fast turnarounds where the pilot will just
23 crash and burn at the pilot shack, and five hours after getting
24 off the previous ship, he's going out to another one. That
25 happens very seldom but with the limited roster and no control

1 over when ships come in and out, and there's also the nuances of
2 having a dozen river pilots and it depends on what the traffic is
3 to Sacramento and Stockton, where they have to pull those guys off
4 the Central Bay board and send them up the creek. So it, it, you
5 know, it's a real juggling act to keep this all involved, and if
6 you've got 30 guys on each watch and the port agent is off,
7 there's an ops pilot off on each watch, handling the coordination
8 between the pilots and the agents and, you know, keeping in touch
9 with dispatch, and then pilots off on training, pilots off on sick
10 leave, sometimes off on comp time, pilots off on committees, the
11 numbers start ratcheting down and if it's designed for 30 to do
12 the typical amount of ships, then you start running a short board.

13 Q. Uh-huh.

14 A. And so, you know, if we're going to take somebody off,
15 the port agent deserves a heads up but without the details.

16 Q. Right.

17 A. I can't violate confidentiality.

18 Q. Absolutely.

19 A. But at the same time, I don't want to impinge on the
20 safe operation of the pilot schedule. You know, safety is our
21 goal, too.

22 Q. Yeah.

23 BY MR. LARUE:

24 Q. You said there's 60 pilots currently?

25 A. Sixty plus one Inland pilot.

1 Q. How many trainees are there? Do you know?

2 A. Currently.

3 MR. JONES: Liam can just finish up questioning.

4 THE WITNESS: Okay. I'm sorry.

5 MR. JONES: That's okay. I've just got to make a phone
6 call.

7 (Off the record.)

8 (On the record.)

9 MR. LARUE: We're back on here.

10 THE WITNESS: Pray, continue.

11 BY MR. LARUE:

12 Q. Yeah. Just a couple of more questions.

13 A. I've got all the answers.

14 Q. Did you say how many there are in training?

15 A. Oh, I'm sorry. No. I've currently got and I'm going to
16 say mine because, you know, I feel like the trainees, even though
17 they're working for the pilots, their contracts are with me. I've
18 been involved in their selection process, their testing, you know,
19 that's the kids.

20 Q. Uh-huh.

21 A. I've got 11 in the training program as we speak. One is
22 ready for licensing and will be licensed to go to work on the 1st
23 of January. Five pilots are retiring the 1st of January, and
24 we've got one going out permanently not fit for duty. So there
25 will be 54 pilots plus the 1 new pilot. Now we're up to 55. We

1 have 11 in the training program now. We license 1, now we're at
2 10 but we're also starting 3 new trainees on the 1st of January.
3 So we'll go from 11 to 13. Sorry for the --

4 Q. No, no, that's fine.

5 A. -- changing numbers. As of 1 January at noon, I'll have
6 13 trainees in the program ranging in experience from a year and a
7 half to a half a day.

8 Q. Okay.

9 A. We'll be short five pilots. We desperately want to make
10 up those numbers but no one will be licensed until they are deemed
11 ready for licensing by the Pilot Evaluation Committee.

12 Q. Okay.

13 A. And that is an extraordinarily rigorous process and that
14 is also in our Board regulations as to what it takes to be tested
15 to get into the program and what it takes to successfully complete
16 the program. Now even if someone successfully completes the
17 program, if there's no vacancies in the pilots, they can't be
18 licensed. We can only do 60 licenses at a time. In the case of
19 the guy who is getting licensed on January 1st, he's been ready
20 for a few months, but there's no vacancies. All of a sudden,
21 there's going to be lots of vacancies.

22 Q. All right. So you said you're in charge -- you're
23 involved with accepting people into the program and all of that.
24 Can you kind of briefly go through how they get into the trainee
25 program, the prerequisites, what they go through during that

1 program, how long it is, everything?

2 A. It's all in the Board regulations, which we will walk
3 away with. However, it's easier to describe it. To be eligible
4 for the trainee program, you have to have a minimum 1600 ton
5 master's license, unlimited radar endorsement. You have to have a
6 minimum of two years command time, command being shipmaster, tug
7 operator, somebody having hired you to run a vessel as master, not
8 chief mate, not watch officer. You've got to be the man. Two
9 years is as the Coast Guard does, 720 days documented time which,
10 you know, sailing out of the hall can take you 4 years to get.
11 Sailing with MSC, it can take you 24 months. Once you've got
12 that, you send in your application. If you meet all that, and
13 you've got the documentation, I do an evaluation that says, okay,
14 you meet the license, you meet the minimum command standards and
15 here is how much time you've got as master, and that gets
16 experience points. Somebody who just barely makes it, has the
17 license and has in excess of 720 days command time, is a 15
18 pointer. If it's more than -- I forget what the gradation is, if
19 it's more than 5 years, there's an additional 5 points. If it's
20 more than 10 years, there's an additional 5. If you have done
21 pilotage on your vessel, there's an additional 5 points. I think
22 it's -- for someone coming from the tugs, you can get a maximum of
23 35 points. Someone coming from the ships, you can get a maximum
24 of 35 points and someone coming from a commercial pilot in another
25 jurisdiction, you can get up to 30 points but they have to have

1 come from one of the other two communities prior to their pilot
2 time. So the guys that come in with pilot time are big point
3 people on experience because they're going to have 15, 20, 25 tug
4 points or the same thing on ship points plus, you know, 10 pilot
5 points, 20 pilot points, 30 pilot points. The higher score guy at
6 our last test which was last August, something like that, I don't
7 know, we did a turnaround test so fast this year, our heads are
8 still spinning. Our high point guy was 60 points. A typical
9 candidate would be 20 to 25 points. We had maybe 2 who were 15
10 pointers, very few 15 pointers. Assuming you pass all those
11 requirements -- oh, and there's recency. One year of command time
12 has to be in the last three, two years in the last five. Assuming
13 you make it through those hoops, you're invited to come take the
14 written test. It's a 100 point test, 2 1/2 hours. We give it up
15 at Cal Maritime. I'm going to -- let me see. It seems to me we
16 had 54 successful applicants. I'm going to say 54 successful, 52
17 showed up to take the test. Those who passed the test, and we've
18 got this thing supervised by a couple of cyclomatriciains who are
19 professional test people. They supervise the writing of the
20 questions. The questions both written and our simulator things
21 are developed from 2 occupational analysis -- analysi that were
22 done 8 and 10 years ago by the same people who were then working
23 for the State of California as to what does a pilot do, you know,
24 what functions make you a pilot? And so our tests are centered
25 around, based on those occupational analysis results. They go

1 through the written test, the good doctors, because they're both
2 Ph.D.s, take the results back up to Sacramento, mechanically score
3 them and then at the same time, the candidates are taking the
4 tests, a group of pilots, serving pilots here, have been pulled
5 off the board and they take the same test. So it's sort of a peer
6 group review where the good doctors evaluate the tests done by the
7 pilots and they determine, okay, the pilots do the tests and then
8 the doctors score them right then and there and then they sit down
9 with them for, gee, four or five hours, reviewing the tests and
10 deciding which questions should be thrown out because as careful a
11 scrutiny as we do in preparing the tests, some questions squeak
12 through that can be answered two different ways and, you know,
13 it's all the same group of people who are preparing the group of
14 questions, I mean same big pilots and a few experts we have here
15 on hand, myself being one, and -- but when you have the peers
16 review them, you know, I could write a question is it day or night
17 right now and, you know, one of your comebacks will say it's day,
18 and the other could say, well, in Europe it's night and both be
19 right because we didn't scrutinize the thing. It's a horrible
20 process. I mean it's thoroughly presented and it's as close to
21 lawyer proof as we can make it but the mental torment that you go
22 through on these things is just horrendous. But we know how to
23 write good questions now. We look at Coast Guard tests and just
24 laugh at them. So they take the test. Of those that took the
25 test, 23 passed and the doctors go through and they evaluate all

1 this stuff, and there's got to be a clear breakpoint. We don't
2 know how many are going to pass. It would be nice if I could say,
3 hey, doc, I need 20 people at the end of this so I can give them
4 the simulator test and I'm looking for 10 at the top. No, that's
5 not cyclometrically sound. It's not lawyer proof.

6 Q. What's a passing score?

7 A. It depends.

8 Q. Okay.

9 A. We can't set the passing score ahead of time until the
10 test group takes the test and they determine the passing score
11 from that without knowing what these people do. They establish
12 the passing score based on the -- it's called an Angoff session.
13 And if you never have to attend one, be happy. I never wanted to
14 know this stuff but now I do. We go to extraordinary lengths to
15 make this stuff happen. So we've given our written test, 23
16 passed. The timeline on this was Monday was the written test.
17 Tuesday was the doctors did the scoring overnight and they got me
18 the information Tuesday morning. One of the Pilot Evaluation
19 Committee members, good Captain Roberts, was here with me and we
20 got the information from the doctors, here's who passed, here's
21 who failed, and so Steven and I got on our respective telephones
22 here and we made 23 happy calls and then we made the sad calls
23 afterwards. Sorry, thank you for taking the written tests, you
24 didn't pass it. The 23 happy calls were, congratulations,
25 Captain, you passed the test. Here's the bad news. Now you've

1 got to take the simulator. So that was Tuesday. We got a hold of
2 everybody. Wednesday morning, we had two groups of people come
3 in. I'm sorry. I told you there was 23. It was 21 people passed
4 the test. It was 23 a year and a half before. Twenty-one people
5 passed the test. Wednesday morning, we brought them in, in two
6 groups, and 10 the first group, 11 the second group. We put them
7 in the simulator, also up at Cal Maritime, and we gave them a dry
8 run of the test. They were on the same ship, that they're going
9 to be driving for the test, and we ran the route, and they could
10 wander anywhere they wanted. Typically they're back by the
11 helmsman, console up here, and I'll show you a video of it if you
12 want to see it. They can wander around. The reason we did it 10
13 and 11 at a time, so we didn't completely overwhelm the simulator.
14 They can see the ship turning. They can go over here to the
15 console or the one up forward and see, okay, it's turning at this
16 rate on a 20 degree rudder. The speed is this. They run her mid
17 ship, this is how fast she steadies up. Okay. We'll go on a hard
18 right, feel how fast she turns. We run them through the whole
19 simulation. It's 25 minutes start to finish. Group one goes out.
20 Group two comes in. Same exact drill. We have scripts that are
21 read to them. Everybody gets exactly the same scenario read to
22 them. It goes by the second. We get all 21 through that.
23 Wednesday afternoon the evaluators come in. The Evaluation Team
24 is two of our Pilot Evaluation Committee members, two retired
25 shipmasters who I draw from my local Council of American Master

1 Mariners just because I have the expertise available to me. One
2 of those guys is one of our investigators. And both of my
3 shipmasters were involved in the previous test as were both of the
4 Evaluation Committee members. So there is no learning curve with
5 that. And then we bring in two pilots from outside state pilot
6 groups, and in our case, Steve Brown, who is assisting us with
7 this evolution, was one of those pilots. So I've got six
8 evaluators total from three different groups, Pilot Evaluation
9 Committee member, retired shipmaster, pilot from another
10 jurisdiction. And giving this test is almost as hard on the
11 evaluators as it is on the people taking the test. So we rotate
12 them, and also because it's such a small community, there's
13 occasions where one of my evaluators can say, I've got to step
14 back through my next one. He used to be my chief mate. That's
15 happened in the past. So then we take the evaluators and we run
16 the scenario. When we do the scenario with the candidates, it's
17 without weather conditions, without other ships, without wind,
18 without current, without all the things that makes life really
19 interesting. They're just seeing the route and how the ship
20 behaves. It's the next day that we separate the men from the
21 boys. That afternoon, Wednesday, we bring in the evaluators and
22 run the real program. We've got one of the Evaluation Committee
23 who is not being a helmsman or the mate. We provide all the
24 extraneous people also. And we take them through the scenario.
25 Generally at least three times, I think we did it four, and we

1 have, we have scripts for the operators of the simulator and then
2 we have, we have the evaluation sheets and each candidate has
3 three evaluators looking as he's doing this. They've got
4 clipboards with lights on them, and they're all, I mean after you
5 do this so many times, you know down to the second what's coming
6 next. Are they highly effective, are they acceptable or are they
7 ineffective on these 35 graded situational points that we put them
8 through? Everybody has the same script. They're all graded on
9 the same things. What's going on from the back, the control room,
10 is a script down to the second. The only difference is where the
11 candidate takes the ship, and how he responds to things. We try
12 to make it so that there is as few opportunities as possible to go
13 off script. We don't want to do any adlibbing, but on occasion
14 you have to. And in the process of developing this thing, we
15 typically run the whole thing from the start, you know, whoever
16 does run number one on the thing, that was me, to the time it's in
17 the can, somewhere between 40 and 50 times in the development of
18 the whole scenario. So we're half burned out and we're half
19 completely psyched into the thing. We own it. So all of our
20 evaluators are brought in on it. In the process of going through
21 the thing, we think that we've covered every possible, you know,
22 contingency. We've tried to hit other ships. We've gone out of
23 our way to, you know, run it fast, run it slow, can we nail this
24 guy and we think we've got it all covered, and then the candidates
25 come in and they boldly go where no man has gone before. We've

1 seen sides of ships that we never thought we'd never see the other
2 side of. We've gone some really interesting places and, you know,
3 as toasted as we are on this stuff, sometimes back in the control
4 room, we're practically stifling ourselves to keep from laughing
5 at some of these guys. In other case, it's oh, no, you know, and
6 we feel for these guys and in so many cases, as I say, it's a
7 small community, you know them and a lot of these guys are second,
8 third, and one guy I think was his fourth time up at bat on the
9 deal and, you know, we're all in the same community. So you feel
10 for them. Anyway, then comes the big two days where we bring the
11 individuals in separately. They come to a central meeting area
12 adjacent to the simulator. They're brought in to a small room.
13 We've got the charts, and I've got the charts here, the actual
14 location for the thing. There's a little island group in Sweden
15 that nobody's ever been to before. We use no local knowledge.
16 It's all knew to all the players. They're given the chart, full
17 size. They've already been provided a copy of it, small scale,
18 the day before when they were given their indoctrination. A
19 script is read saying this is what's going to happen. There's a
20 monitor there with a stopwatch. You have 10 minutes to study the
21 chart. There will be no questions answered from here on out.
22 It's strictly going by the script. It's going on the clock. I
23 give them the 10 minutes, say time's up. We walk over to the
24 simulator. The simulator monitor takes over, brings them in,
25 reads them a script. There's a chart there on the chart table.

1 We give them a couple of minutes to settle in, get their eyes
2 adjusted. It's a dark area, and then I've got my video camera set
3 up. We bring them in front of the camera, introduce themselves,
4 and start the simulation. And I record everything. You can't see
5 the whole simulator but it's a very good audio feed, and we get
6 all of this on tape in case there's any protests afterward.
7 Again, we try to make it completely lawyer proof. The 25 minutes
8 either goes very fast or very slow depending on who you talk to.
9 As I say, on the outside, we're monitoring stuff. We've got a
10 couple of minutes in between and then I or whoever's filling my
11 position, goes off and we get the next candidate started, and for
12 the 25 minute run, we had people coming in I think we started at
13 40 minute intervals and moved it to half hour intervals. So we
14 had 5 minutes slack in there where they were either finishing here
15 or starting over at the study hall, and that gave our evaluators
16 enough time that, number one, the simulator operator could reboot
17 and be ready for the next guy and our evaluators would go off and
18 do a caucus because not everybody gets everything but by the time
19 we finish training, the three evaluators, who are all
20 interchangeable, are agreeing on 90 percent of the stuff. They
21 know what to look for and, you know, one guy might say, I thought
22 he did highly effective, I thought it was only acceptable, and
23 here's why, and they don't usually change the scores but somebody
24 might say, you know, I missed this one. I was making a note and
25 this one slipped by me and, you know, what did you guys have, and

1 if they have two highly effectives, so they check off highly
2 effective. The other guys will tell them, here's why? Yeah,
3 okay, I'll go with that.

4 BY MR. JONES:

5 Q. Now of that 21, what do we get down to?

6 A. I had 13 passed. And I didn't know until a few days
7 later --

8 Q. Uh-huh.

9 A. -- how many it was. The time before, we had 10 pass.
10 The time before that, we had 18 pass.

11 Q. And then it's a decision just how many openings you
12 have?

13 A. Well, we know we're going to have the openings down the
14 road. The score is good -- I mean the list that I develop which
15 is then a combination of the three scores, experience points, plus
16 written points plus stimulator points, and then we come up with a
17 ranked list. So we know we're going to have the vacancies down
18 the road from our pilot retirement surveys which are non-binding,
19 and so I've already got contracts out for the first three that
20 we're going to bring in. And we have to be so careful on this
21 that we don't bring too many people into the training program that
22 at the end of their three years, we're not going to have vacancies
23 for them. We're always -- if we do it right, we're always running
24 a little behind the power curve. We don't want to bring people in
25 that we don't think there's going to be a job for. Historically,

1 we've got about a 10 percent washout rate and so, you know, I'm
2 sitting here furiously polishing my crystal ball but it's always
3 foggy out there.

4 Q. Uh-huh. We've got to wrap this up just because of a lot
5 of stuff down the road, but everything -- I think we've just about
6 covered everything we need.

7 MR. JONES: Liam.

8 MR. LARUE: Definitely if we have more questions we can
9 get back with you later.

10 THE WITNESS: I'm easy to find.

11 MR. LARUE: Yeah.

12 BY MR. JONES:

13 Q. Just one more. That test where you used the working
14 pilots as a control --

15 A. Uh-huh.

16 Q. -- what if one of those pilots --

17 A. By the way, we do this with the simulator also.

18 Q. Uh-huh. What if one of those pilots scored dismally low
19 for the Ph.D.s that are evaluating it? Does that raise a flag or
20 anything?

21 A. On the pilot?

22 Q. Uh-huh.

23 A. No.

24 Q. The pilots that are used as the control, are they
25 randomly picked or --

1 A. Yeah, they're volunteers.

2 Q. Okay. It was just a little caveat I was thinking about.

3 A. I can tell you, as a group, the pilots who are so
4 generous with their time as to volunteer for these Angoff
5 sessions, which are just mind numbing, and the question generation
6 groups, as a man say, God damn, I'm glad I didn't have to take
7 this test. But the results we're getting out of this thing are
8 good, you know, the feedback from the pilots, not just the
9 Evaluation Committee, but the pilot group as a whole, and I get a
10 lot of feedback, because like I say, I'm friends with most of the
11 guys and even the ones I'm not, you know, we all talk. We're
12 closely intertwined and those guys have been saying the ones --
13 the people you guys are providing us for the training program are
14 just crackerjacks. And it's like everything else. You've got a
15 couple who are just water walkers, and they're going to be ready.
16 The training program is a minimum of one year, a maximum of three
17 and, you know, very few people come through in one year. Rick
18 Hurt was a one-year guy. He's a water walker. There's other guys
19 who, you know, at the year and a half point, they're still
20 slogging along, they're just kind of a meat and potatoes guy, and
21 they're doing okay but, you know, they're not dazzling us.

22 Q. Yeah.

23 A. And then one day the light comes on, away they go.
24 There's numeric scores and there's comments. It's like a fitness
25 report where the numeric scores are on one side of the card and

1 the comments are on the other. That's what a trip card looks
2 like, and then --

3 Q. Can we get copies of that?

4 A. -- comments are on the other side. Yeah, although let
5 me get you something up to date, because that one's a little
6 behind the scenes or behind the times. The Evaluation Committee
7 will be going over them and I've seen this a number of times in 14
8 years of sitting in with these guys. The numbers will be doing
9 this and then there will be a drop, and these Evaluation Committee
10 things, there are cyclomatricians who have sat in on these and
11 they've told us, it is by far the most thorough and sophisticated
12 evaluation group they've ever tested. We blow the medical types
13 away with the detail that we go into, and you'll see a guy's
14 number score drop and we'll say, okay, what's wrong? It's always
15 a domestic problem. Take a week off. Take two weeks off if you
16 have to, get the old lady squared away, you know, make the home
17 situation smooth, they come back, away they go. Every single
18 time, and it's that detailed that we can find it, and then, of
19 course, the written comments are the key that tips the thing. The
20 trainees have to have a number -- and it's in the regulations.
21 They have to have a minimum number of rides with Evaluation
22 Committee members before they're ready to go. It takes hours to
23 get into the detail on the stuff, but we like to think we've got a
24 hell of a good program and the professional who have evaluated us
25 have said, yeah, this -- it's not just good, it's great. And the

1 results we're seeing at the other end appear (indiscernible) speak
2 for themselves but the pilots are saying, hey, these guys are
3 good.

4 Q. I think on that note, that's the way to terminate the
5 interview.

6 MR. LARUE: One other question.

7 BY MR. LARUE:

8 Q. What did you teach at Cal Maritime?

9 A. It was the continuing professional education program,
10 life boatman, able seaman and tankerman.

11 Q. All right.

12 A. I didn't teach cadets.

13 Q. Okay.

14 A. Most of my classes were military, Sea Lift Command
15 people although I did have some Union folks also.

16 Q. All right.

17 MR. JONES: Well, thanks, Captain. We appreciate it.
18 We'll go onto the document collection side --

19 THE WITNESS: Okay.

20 MR. JONES: -- of the forms that you have or by-laws
21 and --

22 (Whereupon, the interview in the above-entitled matter
23 was concluded.)

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: The Investigation of the Cosco
 Busan/Bridge Allision
 San Francisco, California
 Interview of Capt. Patrick A. Moloney

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was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

Kathryn A. Mirfin
Transcriber